

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

04 11718 PBS

KINUE ROSARIO,
Plaintiff

v.

SECURITAS SECURITY SERVICES
USA INC., d/b/a PINKERTON,
Defendant

MAGISTRATE JUDGE *Bowler*

RECEIPT # 57732
AMOUNT \$ 150
SUMMONS ISSUED Yes
LOCAL RULE 4.1
WAIVER FORM
MOF ISSUED
BY DPTY. CLK. FOW
DATE 8/3/04

COMPLAINT AND JURY DEMAND

PARTIES

1. The Plaintiff, Kinue Rosario, is a resident of Brockton, County of Plymouth, Commonwealth of Massachusetts.
2. The Defendant, Securitas Security Services USA Inc., d/b/a Pinkerton, (the "Defendant") is a corporation duly organized under the laws of the State of Delaware, having a usual place of business in Quincy, Norfolk County, Commonwealth of Massachusetts.

FACTUAL ALLEGATIONS

3. The Plaintiff was hired as a security guard by the Defendants in or about October 2001, and assigned to work at Brockton Hospital, on the 11-7 shift, where she was subject to the supervision of one Jimmy Giraldo.
4. In or about November of 2001, and on an ongoing and continuous basis thereafter, Giraldo made unwanted sexual advances and offensive comments of a sexual

nature toward the Plaintiff, which had the effect of unreasonably interfering with her employment.

5. Giraldo retaliated against the Plaintiff for rebuffing his sexual overtures, by *inter alia*, assigning her to undesirable work assignments for which she was not trained; switching her hours of work; and making her perform tasks outside her job description.

6. In or about January 2002, the Plaintiff reported Giraldo's misconduct to the Joseph Scagline, the Defendant Pinkerton's Human Resources Manager.

7. During this meeting, Scagline told the Plaintiff he would investigate the allegations of sexual harassment against Giraldo, and ordered the Plaintiff reinstated to the shift from which Giraldo had transferred her.

8. By letter dated January 16, 2002, Scagline, however, informed the Plaintiff that there "was no evidence to substantiate her allegations" of sexual harassment against Giraldo.

9. Subsequent to her reassignment to her original shift, Giraldo and another employee continued to harass and intimidate the Plaintiff, in retaliation for her complaints, and gave her unfavorable work assignments, with the intent to force her to quit.

10. In or about February 2002, the Defendant was informed the Plaintiff was pregnant.

11. The Defendant notified the Plaintiff that she would no longer be permitted to work at Brockton Hospital because she was pregnant, and thus could not perform the essential functions of her job, and offered her reassignment to Lakeville, Massachusetts.

12. The Plaintiff warned the Defendant that this reassignment might not be suitable to her because Lakeville was geographically distant from her home, and because she was concerned about pregnancy related illness.

13. The Plaintiff reported to work on February 17, 2002, but determined that the commute was too difficult for her, and informed Scagline of this fact.

14. The Defendant did not offer the Plaintiff suitable continued employment, and therefore caused her termination from employment.

JURISDICTION

15. The Plaintiff has satisfied all prerequisites to suit under G. L. c. 151B and Title VII, 42 U.S.C. § 2000e.

16. Jurisdiction is proper in this court pursuant to 28 U.S.C. § 1331, federal question, and Title VII, 42 U.S.C. § 1983.

COUNT I

Sexual Harassment – Violation of Title VII, 42 U.S.C. § 2000e

17. By the acts described above, and by the actions of its agents, the Defendant subjected the Plaintiff on an ongoing and continuous basis to a sexually hostile work environment, which unreasonably and substantially interfered with the Plaintiff's employment, and which a reasonable woman would not tolerate, in violation of Title VII, 42 U.S.C. § 2000e.

18. The sexually hostile work environment was created by the acts of the Giraldo in making unwelcome sexual advances and pervasive remarks of a sexual nature toward the Plaintiff; by the fact that agents of the Defendant were aware of Giraldo's sexual harassment of Plaintiff but allowed, condoned, and encouraged it; by the

Defendant's failure to address the Plaintiff's complaints about Giraldo's conduct; by the Defendant's hostile reaction to the Plaintiff's complaints; by the Defendants' hostile and retaliatory treatment of the Plaintiff following her complaints of sexual harassment; and by the Defendants' condoning of sexually hostile treatment and stereotypical attitudes by the male employees toward and female employees in general.

19. The Defendant's conduct adversely affected the Plaintiff generally and in the terms and conditions of her employment, and would have adversely affected any reasonable woman.

20. By creating, condoning, and perpetuating a sexually hostile work environment, the Defendant has intentionally and with reckless indifference and disregard violated Title VII, 42 U.S.C. § 2000e.

21. As a result of the acts complained of herein, the Plaintiff has suffered and will continue to suffer the loss of income, benefits and other compensation, medical expenses, and the Plaintiff has suffered emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses, and the Plaintiff has further suffered severe emotional and distress.

COUNT II

Sexual Harassment – Violation of G.L. c. 151B

22. The Plaintiff incorporates by reference all previous allegations made herein.

23. By the acts described above, and by the actions of its agents, the Defendant subjected the Plaintiff on an ongoing and continuous basis to a sexually hostile work environment, which unreasonably and substantially interfered with the Plaintiff's

employment, and which a reasonable woman would not tolerate, in violation G.L. c. 151B.

24. The sexually hostile work environment was created by the acts of the Giraldo in making unwelcome sexual advances and pervasive remarks of a sexual nature toward the Plaintiff; by the fact that agents of the Defendant were aware of Giraldo's sexual harassment of Plaintiff but allowed, condoned, and encouraged it; by the Defendant's failure to address the Plaintiff's complaints about Giraldo's conduct; by the Defendant's hostile reaction to the Plaintiff's complaints; by the Defendants' hostile and retaliatory treatment of the Plaintiff following her complaints of sexual harassment; and by the Defendants' condoning of sexually hostile treatment and stereotypical attitudes by the male employees toward and female employees in general.

25. The Defendant's conduct adversely affected the Plaintiff generally and in the terms and conditions of her employment, and would have adversely affected any reasonable woman.

26. By creating, condoning, and perpetuating a sexually hostile work environment, the Defendant has intentionally and with reckless indifference and disregard violated G.L. c. 151B.

27. As a result of the acts complained of herein, the Plaintiff has suffered and will continue to suffer the loss of income, benefits and other compensation, medical expenses, and the Plaintiff has suffered emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses and the Plaintiff has further suffered severe emotional and distress.

COUNT III-

Retaliation-Title VII

28. The Plaintiff hereby incorporates by reference all previous allegations made herein.

29. By complaining to Pinkerton that she had been sexually harassed and had been given discriminatory assignments, the Plaintiff engaged in activities protected by Title VII, 42 U.S.C. § 2000e.

30. By the adverse actions described above, including but not limited to the ongoing harassment to which she was subjected generally; her assignments to less favorable positions, and the reassignment to a job which the Defendants knew would cause her termination from employment, the Defendant, by the acts of its agents, retaliated against the Plaintiff for engaging in activity protected by Title VII, 42 U.S.C. § 2000e.

31. As a result of the acts complained of herein, the Plaintiff has suffered harm, injury and damages, including but not limited to the loss of income, emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses, and the Plaintiff has further suffered severe emotional and distress.

COUNT IV-

Retaliation – G.L. c. 151B

32. The Plaintiff hereby incorporates by reference all previous allegations made herein.

33. By complaining to Pinkerton that she had been sexually harassed and had been given discriminatory assignments, the Plaintiff engaged in activities protected by G.L. c. 151B.

34. By the adverse actions described above, including but not limited to the ongoing harassment to which she was subjected generally; her assignments to less favorable positions, and the reassignment to a job which the Defendants knew would cause her termination from employment, the Defendant, by the acts of its agents, retaliated against the Plaintiff for engaging in activity protected by G.L. c. 151B.

35. As a result of the acts complained of herein, the Plaintiff has suffered harm, injury and damages, including but not limited to the loss of income, emotional pain, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses, and the Plaintiff has further suffered severe emotional and distress.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that the Court enter a judgment:

- (a) Awarding her back pay, front pay, damages for emotional distress, compensatory, liquidated, and punitive damages, costs and attorney's fees, as provided by G.L. c. 151B, 42 U.S.C. 2000e;
- (b) enjoining and permanently restraining the Defendant's violation 42 U.S.C. § 2000e, and G.L. c. 151B;
- (c) directing the Defendants to take such affirmative steps as are necessary to ensure that the effects of these unlawful employment practices are eliminated;

- (d) granting such other and further relief as this Court deems necessary and proper.

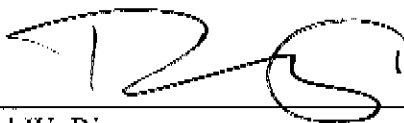
JURY DEMAND

**THE PLAINTIFF DEMANDS A TRIAL BY JURY
ON ALL COUNTS SO TRIABLE.**

Respectfully submitted,

THE PLAINTIFF

By her attorney,

A handwritten signature in black ink, appearing to read 'DRS', written over a horizontal line.

Daniel W. Rice
GLYNN, LANDRY,
HARRINGTON & RICE, LLP
10 Forbes Road
Braintree, MA 02184
BBO # 559269
(781) 849-8479

Dated: July 29, 2004

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS **KINUE ROSARIO**DEFENDANTS **SECURITAS SECURITY SERVICES****PLYMOUTH****USA, INC., d/b/a PINKERTON**(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

DANIEL W. RICE, HARRINGTON & RICE, 10 FORBES ROAD**BRAINTREE, MA 02184 (781) 849-8479**

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ DEF 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ DEF 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☒ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Recovery of Defuncted Student Loans (Excl. Veterans) <input type="checkbox"/> 152 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyright <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 575 Customer Challenge 12 USC 3410 <input type="checkbox"/> 591 Agricultural Acts <input type="checkbox"/> 592 Economic Stabilization Act <input type="checkbox"/> 593 Environmental Matters <input type="checkbox"/> 594 Energy Allocation Act <input type="checkbox"/> 595 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 230 Force Majeure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

SEXUAL HARASSMENT, TITLE VII, 42 U.S.C. SEC. 2000e

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) ROSARIO V. WINKERTON2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL
COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)). I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT. II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121
for patent, trademark or copyright cases X III. 110, 120, 130, 140, 151, 180, 210, 230, 240, 245, 290, 310,
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,
380, 385, 450, 891. IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 680,
690, 810, 861-885, 870, 871, 875, 900. V. 150, 152, 153.3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE
HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS
COURT?

YES NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE
PUBLIC INTEREST? (SEE 28 USC §2403)

YES NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE
28 USC §2284?

YES NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE
COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE
SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION CENTRAL DIVISION WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING
GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION CENTRAL DIVISION WESTERN DIVISION

(PLEASE TYPE OR PRINT) DANIEL RICE

ATTORNEY'S NAME

ADDRESS 10 FORBES ROAD, BRAINTREE, MA 02184TELEPHONE NO. (781) 849-8479